



Report to the Auburn City Council

Action Item

4

Agenda Item No.


City Manager's Approval

To: Mayor and City Council
From: Robert Richardson, City Manager
Date: July 8, 2013
Subject: First Amendment for Legal Services

The Issue

Shall the City Council, by Resolution, adopt the First Amendment for Legal Services with Colantuono & Levin?

Conclusion and Recommendation

That the City Council, by Resolution, adopt the First Amendment for Legal Services with Colantuono & Levin.

Background

In October of 2005, the City entered into an agreement with the law firm of Colantuono & Levin to provide contract City Attorney services for Auburn. Since that time there have been no changes to the agreement or billing rates. The Firm is now requesting an adjustment in their Litigation and Other Specialized Legal Services billing rates, however no change to the monthly Retainer.

The City Attorney's contract provides for two broad categories of legal services; Retainer, and Litigation & Other Specialized Legal Services. Retainer Services provide the backbone of legal assistance for the City Council and City Staff on a day-to-day basis. Over the course of this agreement the City Attorney has typically met or been under budget for Retainer services. The City can also require specialized legal services from time to time that fall outside the scope of normal retainer services. The City then has the option to obtain these more specialized services from Colantuono & Levin under this agreement or retain another firm based on expertise and/or economics.

The Contract Amendment calls for a roughly 5% increase in Litigation & Other Specialized Legal Services in FY 14, and another 5% increase in FY 15. There will be no changes to the City's Retainer.

Alternatives

Deny Amendment.

Fiscal Impact

The City budgets \$150,000 for legal services. Retainer Services constitute \$108,000 of that amount with the remainder allocated for unanticipated legal services. The fiscal impacts for this Amendment are difficult to quantify as litigation and other specialized services are typically not anticipated costs and the City is not bound to obtain said services from Colantuono & Levin.

Attachments

Contract Amendment.

1 RESOLUTION NO. 13-

2 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN
3 APPROVING THE FIRST AMENDMENT FOR LEGAL SERVICES WITH
4 COLANTUONO & LEVIN AND AUTHORIZING THE MAYOR TO EXECUTE SAID
5 AMENDMENT

6 THE CITY COUNCIL OF THE CITY OF AUBURN DOES HEREBY RESOLVE:

7 WHEREAS, in October, 2005, the City Council of the City of Auburn
8 adopted a legal services agreement with Colantuono & Levin; and,

9 WHEREAS, they have requested an increase in their optional Litigation
10 and Specialized Legal Services billing rates in FY 14 and FY 15; and

11 WHEREAS, Retainer service billing rates will remain the same;

12 NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of
13 Auburn hereby approves the Amended Legal Services Agreement with
14 Colantuono & Levin, and authorizes the Mayor to execute said Amendment.

15 DATED: July 8, 2013

16
17 _____
Kevin Hanley, Mayor

18 ATTEST:

19 _____
20 Stephanie L. Snyder, City Clerk

21
22 I, Stephanie L. Snyder, City Clerk of the City of Auburn, hereby certify
23 that the foregoing resolution was duly passed at a regular meeting of the City
24 Council of the City of Auburn held on the 8th day of July, 2013 by the
following vote on roll call:

25 Ayes:

26 Noes:

27 Absent:

28 _____
Stephanie L. Snyder, City Clerk

FIRST AMENDMENT TO AGREEMENT FOR LEGAL SERVICES
FOR THE CITY OF AUBURN

This First Amendment to Agreement for Legal Services is made and entered into by and between the law firm of Colantuono & Levin, PC (hereinafter "the Firm") and the City of Auburn (hereinafter the "City").

RECITALS:

A. Under that certain Agreement for Legal Services between Firm and City effective October 1, 2005 ("2005 Agreement"), the City retained the Firm to discharge the duties of the office of City Attorney of the City and General Counsel of the Auburn Urban Development Authority ("AUDA") designated Michael G. Colantuono, a member of the Firm, as its City Attorney and General Counsel of AUDA, which was subsequently dissolved by state law and its functions assumed by the Successor Agency to AUDA ("Successor Agency").

B. The attorneys of the Firm are duly licensed under the laws of the State of California and are fully qualified to discharge the duties of the office of City Attorney and General Counsel of the Successor Agency and to provide the services contemplated by this Agreement.

C. The rates established by 2005 Agreement have never been changed and it is appropriate to increase rates payable to the Firm to reflect inflation since that time.

D. To assist the City, Firm agrees to spread the increase over two fiscal years.

NOW, THEREFORE, the parties hereto agree to amend the 2005 Agreement by including Exhibits A and B as set forth in the attachments to this Amendment.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have caused this Amendment to be executed as of June 24, 2013.

CITY OF AUBURN

By: _____

Kevin Hanley, Mayor

ATTEST:

By: _____
Stephanie Snyder, City Clerk

COLANTUONO & LEVIN, PC

By: _____
Michael G. Colantuono, President

EXHIBIT "A"
to First Agreement for Legal Services Effective July 1, 2013

SCOPE OF SERVICES AND APPLICABLE BILLING RATES

I. GENERAL LEGAL SERVICES

A. GENERAL RATES. The general legal services to be provided by the Firm to the City shall include the following:

1. Provide routine legal assistance, advice and consultation to the City Council and to City staff relating to general public law issues, potential tort liability and risk management.
2. Prepare and review legal opinions, ordinances, resolutions, agreements and related documents.
3. Attend such meetings of the City Council and such other boards, commissions and other bodies of the City as may from time to time be specified by the City.
4. Monitor pending state and federal legislation and regulations, and new case law, as appropriate.
5. Perform such other or additional general legal services as may be requested by the City, acting by and through the City Council or City Manager.
6. Administer contracts that the City may have with other legal counsel.
7. Provide attorneys on-site for office hours as requested by the City Manager.

The general services described here shall be provided for \$9,000 per month.

B. TASK BILLING. Upon request by City, Firm will propose flat-fee amounts to cover special projects defined above or specific tasks under Sections II and III below. When such task, flat-fee arrangements have been agreed upon, they shall control over the rates provided by this Agreement.

II. LITIGATION SERVICES

A. The Firm will provide litigation services to the City in any and all matters assigned by the City, except as delegated pursuant to the Agreement, or as otherwise agreed in writing by the Firm and the City.

B. The litigation services specified in paragraph A shall be billed at the regular hourly rates of the attorneys and other professionals providing such services at the time those services are provided to a maximum of \$235 per hour on or after July 1, 2013 and \$250 per hour on or after July 1, 2014, or as otherwise agreed pursuant to paragraph I.B. above. The non-retainer rates in effect on the Effective Date of this Agreement are set forth in Exhibit B.

C. If such services are to be reimbursed to the City by a third party, then such services shall be billed at the regular hourly rates of the attorneys and other professionals providing such services at the time those services are provided to a maximum of \$260 per hour on or after July 1, 2013 and \$275 per hour on or after July 1, 2014, or as otherwise agreed pursuant to paragraph I.B. above.

III. OTHER SPECIALIZED LEGAL SERVICES

The specialized legal services (excluding those described above) to be provided by the Firm to the City shall include the following:

1. Legal services pertaining to labor, employment and personnel matters.
2. Advice regarding taxes, assessments, fees and other Financial Advice.
3. Environmental Legal Services including review of negative declarations, environmental impact reports and other project-level environmental documentation.
4. Real Estate and Eminent Domain Services including review of escrow documents, title reports and contracts of sale.
5. Insurance Coverage Services, such as advice and representation regarding disputes with the City's risk pool or insurance provider.

6. Water Law Services involving the interpretation, enforcement, or defense of water rights of the City.

7. Such other specialized services as may be required by the City.

The specialized legal services specified in this paragraph shall be billed at the regular hourly rates of the attorneys and other professionals providing such services at the time those services are provided to a maximum of \$235 per hour on or after July 1, 2013 and \$250 per hour on or after July 1, 2014, or as otherwise agreed pursuant to paragraph I.B. above. The non-retainer rates in effect on the Effective Date of this Agreement are set forth in Exhibit B.

C. If such services are to be reimbursed to the City by a third party, then such services shall be billed at the regular hourly rates of the attorneys and other professionals providing such services at the time those services are provided to a maximum of \$260 per hour on or after July 1, 2013 and \$275 per hour on or after July 1, 2014, or as otherwise agreed pursuant to paragraph I.B. above.

EXHIBIT "B"
to Agreement for Legal Services Effective July 1, 2013

Non-Retainer Hourly Billing Rates
as of July 1, 2013

shareholders and senior contract attorneys	\$235
8 th year and more senior associates	\$235
7 th year associates	\$235
6 th year associates	\$235
5 th year associates	\$235
4 th year associates	\$235
3 rd year associates	\$225
2 nd year associates	\$195
1 st year associates	\$175
paralegals	\$145
legal assistants	\$110

Non-Retainer Hourly Billing Rates
as of July 1, 2014

shareholders and senior contract attorneys	\$250
8 th year and more senior associates	\$250
7 th year associates	\$250
6 th year associates	\$250
5 th year associates	\$250
4 th year associates	\$250
3 rd year associates	\$235
2 nd year associates	\$195
1 st year associates	\$175
paralegals	\$145
legal assistants	\$110

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